

Part 2H. Discarded Computer Equipment and Television Management.

§ 130A-309.130. Findings.

The General Assembly makes the following findings:

- (1) The computer equipment and television waste stream is growing rapidly in volume and complexity and can introduce toxic materials into solid waste landfills.
- (2) It is in the best interest of the citizens of this State to have convenient, simple, and free access to recycling services for discarded computer equipment and televisions.
- (3) Collection programs operated by manufacturers and local government and nonprofit agencies are an efficient way to divert discarded computer equipment and televisions from disposal and to provide recycling services to all citizens of this State.
- (4) The development of local and nonprofit collection programs is hindered by the high costs of recycling and transporting discarded computer equipment and televisions.
- (5) No comprehensive system currently exists, provided either by electronics manufacturers, retailers, or others, to adequately serve all citizens of the State and to divert large quantities of discarded computer equipment and televisions from disposal.
- (6) Manufacturer responsibility is an effective way to ensure that manufacturers of computer equipment and televisions take part in a solution to the electronic waste problem.
- (7) The recycling of certain discarded computer equipment and televisions recovers valuable materials for reuse and will create jobs and expand the tax base of the State.
- (8) While some computers and computer monitors can be refurbished and reused and other consumer electronics products contain valuable materials, some older and bulkier consumer electronic products, including some televisions, may not contain any valuable products but should nevertheless be recycled to prevent the release of toxic substances to the environment.
- (9) For the products covered by this Part, differences in product life expectancy, market economics, residual value, and product portability necessitate different approaches to recycling.
- (10) In order to ensure that end-of-life computer equipment and televisions are responsibly recycled, to promote conservation, and to protect public health and the environment, a comprehensive and convenient system for recycling and reuse of certain electronic equipment should be established on the basis of shared responsibility among manufacturers, retailers, consumers, and the State. (2010-67, s. 2(a).)

§ 130A-309.131. Definitions.

As used in this Part, the following definitions apply:

- (1) Business entity. – Defined in G.S. 55-1-40(2a).
- (1a) Computer. – An electronic, magnetic, optical, electrochemical, or other high-speed data processing device that has all of the following features:
 - a. Performs logical, arithmetic, and storage functions for general purpose needs that are met through interaction with a number of software programs contained in the computer.
 - b. Is not designed to exclusively perform a specific type of limited or specialized application.
 - c. Achieves human interface through a keyboard, display unit, and mouse or other pointing device.
 - d. Is designed for a single user.
- (2) Computer equipment. – Any computer, monitor or video display unit for a computer system, and the peripheral equipment except keyboards and mice, and a printing device such as a printer, a scanner, a combination print-scanner-fax machine, or other device designed to produce hard paper copies from a computer. Computer equipment does not include an automated typewriter, professional workstation, server, ICI device, ICI system, mobile telephone, portable handheld calculator, portable digital assistant (PDA), MP3 player, or other similar device; an automobile; a television; a household appliance; a large piece of commercial or industrial equipment, such as commercial medical equipment, that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display device that is contained within, and is not separate from, the larger piece of equipment, or other medical devices as that term is defined under the federal Food, Drug, and Cosmetic Act.
- (3) Computer equipment manufacturer. – A person that manufactures or has manufactured computer equipment sold under its own brand or label; sells or has sold under its own brand or label computer equipment produced by other suppliers; imports or has imported into the United States computer equipment that was manufactured outside of the United States; or owns or has owned a brand that it licenses or has licensed to another person for use on computer equipment. Computer equipment manufacturer includes a business entity that acquires another business entity that manufactures or has manufactured computer equipment. Computer equipment manufacturer does not include any existing person that does not and has not manufactured computer equipment of the type that would be used by consumers.
- (4) Consumer. – Any of the following:
 - a. An occupant of a single detached dwelling unit or a single unit contained within a multiple dwelling unit who used a covered device primarily for personal or home business use.
 - b. A nonprofit organization with fewer than 10 employees that used a covered device in its operations.
- (5) Covered device. – Computer equipment and televisions used by consumers primarily for personal or home business use. The term does not include a device that is any of the following:
 - a. Part of a motor vehicle or any component of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

- b. Physically a part of or integrated within a larger piece of equipment designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting.
 - c. Equipment used for diagnostic, monitoring, or other medical products as that term is defined under the federal Food, Drug, and Cosmetic Act.
 - d. Equipment used for security, sensing, monitoring, antiterrorism purposes, or emergency services purposes.
 - e. Contained within a household appliance, including, but not limited to, a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, or exercise equipment.
- (6) Recodified to subdivision (1a).
 - (7) Discarded computer equipment. – Computer equipment that is solid waste generated by a consumer.
 - (8) Discarded computer equipment or television collector. – A municipal or county government, nonprofit agency, recycler, or retailer that knowingly accepts for recycling discarded computer equipment or a television from a consumer.
 - (9) Discarded television. – A television that is solid waste generated by a consumer.
 - (9a) Electronic device. – Machinery that is powered by a battery or an electrical cord.
 - (10) Market share. – A television manufacturer's obligation to recycle discarded televisions. A television manufacturer's market share is the television manufacturer's prior year's sales of televisions as calculated by the Department pursuant to G.S. 130A-309.138(4) divided by all manufacturers' prior year's sales for all televisions as calculated by the Department pursuant to G.S. 130A-309.138(4). Market share may be expressed as a percentage, a fraction, or a decimal fraction.
 - (11) Repealed by Session Laws 2015-1, s. 2(d), effective March 16, 2015.
 - (12) Recover. – The process of reusing or recycling covered devices.
 - (13) Recycle. – The processing, including disassembling, dismantling, and shredding, of covered devices or their components to recover a usable product. Recycle does not include any process that results in the incineration of a covered device.
 - (14) Recycler. – A person that recycles covered devices.
 - (15) Retailer. – A person that sells computer equipment or televisions in the State to a consumer. Retailer includes a computer equipment manufacturer or a television manufacturer that sells directly to a consumer through any means, including transactions conducted through sales outlets, catalogs, the Internet, or any similar electronic means, but does not include a person that sells computer equipment or televisions to a distributor or retailer through a wholesale transaction.
 - (16) Television. – Any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying of television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode

ray tube (CRT), plasma, liquid crystal display (LCD), digital light processing (DLP), liquid crystal on silicon (LCOS), silicon crystal reflective display (SXRD), light emitting diode (LED), or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include computer equipment.

- (17) Television manufacturer. – A person that: (i) manufactures for sale in this State a television under a brand that it licenses or owns; (ii) manufactures for sale in this State a television without affixing a brand; (iii) resells into this State a television under a brand it owns or licenses produced by other suppliers, including retail establishments that sell a television under a brand that the retailer owns or licenses; (iv) imports into the United States or exports from the United States a television for sale in this State; (v) sells at retail a television acquired from an importer that is the manufacturer as described in sub-subdivision (iv) of this subdivision, and the retailer elects to register in lieu of the importer as the manufacturer of those products; (vi) manufactures a television for or supplies a television to any person within a distribution network that includes wholesalers or retailers in this State and that benefits from the sale in this State of the television through the distribution network; or (vii) assumes the responsibilities and obligations of a television manufacturer under this Part. In the event the television manufacturer is one that manufactures, sells, or resells under a brand it licenses, the licensor or brand owner of the brand shall not be considered to be a television manufacturer under (i) or (iii) of this subdivision. (2010-67, s. 2(a); 2010-180, s. 20; 2015-1, s. 2(d).)

§ 130A-309.132. Responsibility for recycling discarded computer equipment and televisions.

In addition to the specific requirements of this Part, discarded computer equipment and television collectors and computer equipment manufacturers and television manufacturers share responsibility for the recycling of discarded computer equipment and televisions and the education of citizens of the State as to recycling opportunities for discarded computer equipment and televisions. (2010-67, s. 2(a).)

§ 130A-309.133. Data security.

Computer equipment manufacturers, television manufacturers, discarded computer equipment and television collectors, recyclers, and retailers shall not be liable in any way for data or other information left on a covered device that is collected or recovered pursuant to the provisions of this Part. (2010-67, s. 2(a).)

§ 130A-309.134. (See editor's note for first report due date) Requirements for computer equipment manufacturers.

(a) **Registration Required.** – Each computer equipment manufacturer, before selling or offering for sale computer equipment in North Carolina, shall register with the Department.

(b) **Manufacturer Label Required.** – A computer equipment manufacturer shall not sell or offer to sell computer equipment in this State unless a visible, permanent label clearly identifying the manufacturer of that equipment is affixed to the equipment.

(c) **Computer Equipment Recycling Plan Required.** – Each computer equipment manufacturer shall develop, submit to the Department, and implement one of the following plans to provide a free and reasonably convenient recycling program to take responsibility for computer equipment discarded by consumers:

- (1) **Level I recycling plan.** – A computer equipment manufacturer shall submit a recycling plan for reuse or recycling of computer equipment discarded by consumers in the State produced by the manufacturer. The manufacturer shall submit a proposed plan to the Department within 90 days of registration as required by subsection (a) of this section. The plan shall:
 - a. Provide that the manufacturer will take responsibility for computer equipment discarded by consumers that it manufactured.
 - b. Describe any direct take-back program to be implemented by the manufacturer. Collection methods that are deemed to meet the requirements of this subdivision include one or more of the following:
 1. A process offered by the computer equipment manufacturer or the manufacturer's designee for consumers to return discarded computer equipment by mail.
 2. A physical collection site operated and maintained by the computer equipment manufacturer or the manufacturer's designee to receive discarded computer equipment from consumers, which is available to consumers during normal business hours.
 3. A collection event hosted by the computer equipment manufacturer or the manufacturer's designee at which a consumer may return computer equipment.
 - c. Include a detailed description as to how the manufacturer will implement the plan.
 - d. Provide for environmentally sound management practices to transport and recycle discarded computer equipment.
 - e. Include a consumer recycling education program on the laws governing the recycling and reuse of discarded computer equipment under this Part and on the methods available to consumers to comply with those requirements. The manufacturer shall operate a toll-free telephone number to answer questions from consumers about computer recycling options.
- (2) **Level II recycling plan.** – A computer equipment manufacturer shall submit a recycling plan for reuse or recycling of computer equipment discarded by consumers in the State produced by the manufacturer and by other manufacturers. The manufacturer shall submit a proposed plan to the Department within 90 days of registration as required by subsection (a) of this section. The plan may offer additional options to collect other types of

electronic equipment that do not constitute discarded computer equipment, as that term is defined under G.S. 130A-309.131, and may allow for assessment of a nominal fee for collection of these other types of electronic equipment that are not discarded computer equipment. The plan shall include all of the elements set forth in subdivision (1) of subsection (c) of this section. In addition the plan shall:

- a. Provide that the manufacturer will take responsibility for computer equipment discarded by consumers that was manufactured by other manufacturers, as well as computer equipment that it manufactured.
 - b. Provide that the manufacturer shall: (i) maintain physical collection sites to receive discarded computer equipment from consumers in the 10 most populated municipalities in the State. The physical collection sites shall be available to consumers during normal business hours, at a minimum; and (ii) host at least two collection events annually within the State.
- (3) Level III recycling plan. – A computer equipment manufacturer shall submit a recycling plan for reuse or recycling of computer equipment discarded by consumers in the State produced by the manufacturer and by other manufacturers. The manufacturer shall submit a proposed plan to the Department within 90 days of registration as required by subsection (a) of this section. The plan may offer additional options to collect other types of electronic equipment that do not constitute discarded computer equipment, as that term is defined under G.S. 130A-309.131, and may allow for assessment of a nominal fee for collection of these other types of electronic equipment that are not discarded computer equipment. The plan shall include all of the elements set forth in subdivision (1) of subsection (c) of this section. In addition the plan shall:
- a. Provide that the manufacturer will take responsibility for computer equipment discarded by consumers that was manufactured by other manufacturers, as well as computer equipment that it manufactured.
 - b. Provide that the manufacturer shall: (i) maintain physical collection sites to receive discarded computer equipment from consumers in 50 of the State's counties, of which 10 of those counties shall be the most populated counties in the State. The physical collection sites shall be available to consumers during normal business hours, at a minimum; and (ii) host at least two collection events annually within the State.

(d) Fee Required. – Within 90 days of registration as required in subsection (a) of this section, a computer equipment manufacturer shall pay an initial registration fee to the Department. A computer equipment manufacturer that has registered shall pay an annual renewal registration fee to the Department, which shall be paid each year no later than July 1. The proceeds of these fees shall be credited to the Electronics Management Fund established pursuant to G.S. 130A-309.137. A computer equipment manufacturer that sells 1,000 items of computer equipment or fewer per year is exempt from the requirement to pay the registration fee and the annual renewal fee imposed by this subsection. The amount of the fee a computer equipment manufacturer shall pay shall be determined on the basis of the plan the manufacturer develops, submits, and implements pursuant to subsection (c) of this section, as follows:

- (1) A computer equipment manufacturer who develops, submits, and implements a Level I recycling plan pursuant to subdivision (1) of

subsection (c) of this section shall pay an initial registration fee of fifteen thousand dollars (\$15,000) and an annual renewal fee of fifteen thousand dollars (\$15,000) to the Department.

(2) A computer equipment manufacturer who develops, submits, and implements a Level II recycling plan pursuant to subdivision (2) of subsection (c) of this section shall pay an initial registration fee of ten thousand dollars (\$10,000) and an annual renewal fee of seven thousand five hundred dollars (\$7,500) to the Department.

(3) A computer equipment manufacturer who develops, submits, and implements a Level III recycling plan pursuant to subdivision (3) of subsection (c) of this section shall pay an initial registration fee of ten thousand dollars (\$10,000) and an annual renewal fee of two thousand five hundred dollars (\$2,500) to the Department.

(e) Computer Equipment Recycling Plan Revision. – A computer equipment manufacturer may prepare a revised plan and submit it to the Department at any time as the manufacturer considers appropriate in response to changed circumstances or needs. The Department may require a manufacturer to revise or update a plan if the Department finds that the plan is inadequate or out of date.

(f) Payment of Costs for Plan Implementation. – Each computer equipment manufacturer is responsible for all costs associated with the development and implementation of its plan. A computer equipment manufacturer shall not collect a fee from a consumer or a local government for the management of discarded computer equipment at the time the equipment is delivered for recycling.

(g) Joint Computer Equipment Recycling Plans. – A computer equipment manufacturer may fulfill the requirements of subsection (c) of this section by participation in a joint recycling plan with other manufacturers. A joint plan shall meet the requirements of subsection (c) of this section.

(h) Annual Report. – Each computer equipment manufacturer shall submit a report to the Department by October 1 of each year stating the total weight of all computer equipment collected for recycling or reuse in the previous fiscal year. The report shall also include a summary of actions taken to comply with the requirements of subsection (c) of this section. (2010-67, s. 2(a).)

§ 130A-309.135. Requirements for television manufacturers.

(a) **Registration and Fee Required.** – Each television manufacturer, before selling or offering for sale televisions in the State, shall register with the Department and, at the time of registration, shall pay an initial registration fee of two thousand five hundred dollars (\$2,500) to the Department. An initial registration shall be valid from the day of registration through the last day of the fiscal year in which the registration fee was paid. A television manufacturer that has registered shall pay an annual renewal registration fee of two thousand five hundred dollars (\$2,500) to the Department. The annual renewal registration fee shall be paid to the Department each fiscal year no later than June 30 of the previous fiscal year. The proceeds of these fees shall be credited to the Electronics Management Fund. A television manufacturer that sells 1,000 televisions or fewer per year is exempt from the requirement to pay the registration fee and the annual renewal fee imposed by this subsection.

(b) **Manufacturer Label Required.** – A television manufacturer shall not sell or offer to sell any television in this State unless a visible, permanent label clearly identifying the manufacturer of that device is affixed to the equipment.

(c) **Recycling of Market Share Required.** – The obligation to recycle televisions shall be allocated to each television manufacturer based on the television manufacturer's market share. A television manufacturer must annually recycle or arrange for the recycling of its market share of televisions pursuant to this section.

(d) **Due Diligence and Compliance Assessments.** – A television manufacturer shall conduct and document due diligence assessments of the recyclers the manufacturer contracts with, including an assessment of compliance with environmentally sound recovery standards adopted by the Department.

(e) **Contact Information Required.** – A television manufacturer shall provide the Department with contact information for the manufacturer's designated agent or employee whom the Department may contact for information related to the manufacturer's compliance with the requirements of this section.

(f) **Joint Television Recycling Plans.** – A television manufacturer may fulfill the requirements of this section either individually or in participation with other television manufacturers.

(g) **Annual Report.** – A television manufacturer shall report to the Department by October 1 of each year the total weight of televisions the manufacturer collected and recycled in the State during the previous fiscal year. (2010-67, s. 2(a).)

§ 130A-309.136. Requirements applicable to retailers.

(a) A manufacturer must not sell or offer for sale or deliver to retailers for subsequent sale new computer equipment or televisions unless: (i) the covered device is labeled with the manufacturer's brand, which label is permanently affixed and readily visible; and (ii) the manufacturer has filed a registration with the Department and is otherwise in compliance with the requirements of this Part, as indicated on the list developed and maintained by the Department pursuant to G.S. 130A-309.138(1).

(b) A retailer that sells or offers for sale new computer equipment or televisions must: (i) determine that all new covered devices that the retailer is offering for sale are labeled with the manufacturer's brand, which label is permanently affixed and readily visible; and (ii) review the Department's Web site to confirm that the manufacturer of a new covered device is on the list developed and maintained by the Department pursuant to G.S. 130A-309.138(1).

(c) A retailer is not responsible for an unlawful sale under this section if the manufacturer's registration expired or was revoked and the retailer took possession of the covered device prior to the expiration or revocation of the manufacturer's registration and the unlawful sale occurred within six months after the expiration or revocation. (2010-67, s. 2(a).)

§ 130A-309.137. (See editor's note) Electronics Management Fund.

(a) **Creation.** – The Electronics Management Fund is created as a special fund within the Department. The Fund consists of revenue credited to the Fund from the proceeds of the fee imposed on computer equipment manufacturers under G.S. 130A-309.134 and television manufacturers under G.S. 130A-309.135.

(b) **Use and Distribution.** – Moneys in the Fund shall be used by the Department to implement the provisions of this Part concerning discarded computer equipment and televisions. The Department may use all of the proceeds of the fee imposed on television manufacturers pursuant to G.S. 130A-309.135 and may use up to ten percent (10%) of the proceeds of the fee imposed on computer equipment manufacturers under G.S. 130A-309.134 for administration of the requirements of this Part. Funds remaining shall be distributed annually by the Department to eligible local governments pursuant to this section. The Department shall distribute such funds on or before February 15 of each year. Funds shall be distributed on a pro rata basis.

(c) **Eligibility.** – Except as provided in subsection (d) of this section, no more than one unit of local government per county, including the county itself, may receive funding pursuant to this section for a program to manage discarded computer equipment, televisions, and other electronic devices. A unit of local government shall submit a plan to include:

- (1) Information on existing programs within the jurisdiction to recycle or reuse discarded computer equipment, televisions, and other electronic devices, or information on a plan to begin such a program on a date certain. This information shall include a description of the implemented or planned practices for collection of the equipment and a description of the types of equipment to be collected and how the equipment will be marketed for recycling.
- (2) Information on a public awareness and education program concerning the recycling and reuse of discarded computer equipment, televisions, and other electronic devices.
- (3) Information on methods to track and report total tonnage of computer equipment, televisions, and other electronic devices collected and recycled in the jurisdiction.
- (4) Information on interactions with other units of local government to provide or receive services concerning disposal of discarded computer equipment, televisions, and other electronic devices.
- (5) Information on how the unit of local government will account for the expenditure of funds received pursuant to this section.
- (6) Proof of contract or agreement with a recycler that is certified as adhering to Responsible Recycling ("R2") practices or that is certified as an e-Steward recycler adhering to the e-Stewards Standard for Responsible Recycling and Reuse of Electronic Equipment/rs to process the discarded computer equipment, televisions, and other electronic devices that the unit of local government collects.

(c1) **Submittal of Information for Distribution of Funding.** – Documentation meeting the requirements of subdivision (6) of subsection (c) of this section, and other information required by subsection (c) of this section, including new plans or revisions to plans as necessary, must be submitted annually on or before December 31 in order to be eligible for funding during the next distribution by the Department.

(d) **Local Government Designation.** – If more than one unit of local government in a county, including the county itself, requests funding pursuant to this section, the units of local

government in question may enter into interlocal agreements for provision of services concerning disposal of discarded computer equipment and televisions, and distribution of funds received pursuant to this section among the parties to the agreement. If the units of local government do not enter into an interlocal agreement regarding funding under this section, the Department shall distribute funds to the eligible local governments based on the percentage of the county's population to be served under each eligible local government's program.

(e) Report. – Information regarding permanent recycling programs for discarded computer equipment and televisions for which funds are received pursuant to this section, and information on operative interlocal agreements executed in conjunction with funds received, if any, shall be included in the annual report required under G.S. 130A-309.09A. (2010-67, s. 2(a); 2013-409, s. 7.)

§ 130A-309.138. Responsibilities of the Department.

In addition to its other responsibilities under this Part, the Department shall:

- (1) Develop and maintain a current list of manufacturers that are in compliance with the requirements of G.S. 130A-309.134 and G.S. 130A-309.135, post the list to the Department's Web site, and provide the current list to the Department of Information Technology each time that the list is updated.
- (2) Develop and implement a public education program on the laws governing the recycling and reuse of discarded computer equipment and televisions under this Part and on the methods available to consumers to comply with those requirements. The Department shall make this information available on the Internet and shall provide technical assistance to manufacturers to meet the requirements of G.S. 130A-309.134(c)(1)e. The Department shall also provide technical assistance to units of local government on the establishment and operation of discarded computer equipment and television collection centers and in the development and implementation of local public education programs.
- (3) Maintain the confidentiality of any information that is required to be submitted by a manufacturer under this Part that is designated as a trade secret, as defined in G.S. 66-152(3) and that is designated as confidential or as a trade secret under G.S. 132-1.2.
- (4) The Department shall use national televisions sales data available from commercially available analytical sources to calculate the generation of discarded televisions and to determine each television manufacturer's recovery responsibilities for televisions based on the manufacturer's market share. The Department shall extrapolate data for the State from national data on the basis of the State's share of the national population. (2010-67, s. 2(a); 2015-241, s. 7A.4(l).)

§ 130A-309.139. Enforcement.

This Part may be enforced as provided by Part 2 of Article 1 of this Chapter. (2010-67, s. 2(a).)

§ 130A-309.140. Annual report by Department of recycling under this Part; periodic report by Environmental Review Commission of electronic recycling programs in other states.

(a) The Department shall include in the status of solid waste management report required to be submitted on or before January 15 of each year pursuant to G.S. 130A-309.06(c) a report on the recycling of discarded computer equipment and televisions in the State under this Part. The report must include an evaluation of the recycling rates in the State for discarded computer equipment and televisions, a discussion of compliance and enforcement related to the requirements of this Part, and any recommendations for any changes to the system of collection and recycling of discarded computer equipment, televisions, or other electronic devices.

(b) The Environmental Review Commission, with the assistance of the Department of Environmental Quality, shall monitor and review electronic recycling programs in other states on an ongoing basis and shall report its findings and recommendations to the General Assembly periodically. (2010-67, ss. 2(a), 7; 2015-241, s. 14.30(u); 2017-10, s. 4.14(b).)

§ 130A-309.141. Local government authority not preempted.

Nothing in this Part shall be construed as limiting the authority of any local government to manage computer equipment and televisions that are solid waste. (2010-67, s. 2(a).)

§ 130A-309.142. Registration of facilities recovering or recycling electronics required.

Facilities that recover or recycle covered devices or other electronic devices diverted from the waste stream for transfer, treatment, or processing shall register annually with the Department on or before August 1 of each year upon such form as the Department may prescribe. (2015-1, s. 2(e).)